

Regular Session, 2014

ACT No. 442

HOUSE BILL NO. 1280 (Substitute for House Bill No. 903 by Representative Simon)

BY REPRESENTATIVES SIMON, CONNICK, DOVE, GISCLAIR, ORTEGO, POPE,
STOKES, AND PATRICK WILLIAMS

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AN ACT

To amend and reenact R.S. 37:1271(B)(2) and to enact R.S. 37:1271(B)(3) through (5) and Part LXXV of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1300.381 through 1300.384, relative to telehealth services; to provide for definitions; to provide for the delivery of healthcare services through telemedicine; to authorize state agencies and licensing boards and commissions to promulgate rules governing healthcare services provided by telehealth; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1271(B)(2) is hereby amended and reenacted and R.S. 37:1271(B)(3) through (5) are hereby enacted to read as follows:

§1271. License to practice medicine or telemedicine required

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B.

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(2) ~~Any person authorized by the board to practice~~ Except as provided in R.S. 37:1276.1, all of the following shall apply to any physician practicing telemedicine as defined in this Part: ~~shall ensure that a licensed health care professional who can adequately and accurately assist with any of the requirements listed in R.S. 37:1276.1(B)(2) is in the examination room with the patient at the time such patient is receiving telemedicine services. The board shall promulgate rules in accordance with the Administrative Procedure Act to establish what type of health care professional is necessary and appropriate under the circumstances.~~

1 (a) The physician practicing telemedicine shall use the same standard of care
 2 as if the healthcare services were provided in person.

3 (b) The physician practicing telemedicine shall not be required to conduct
 4 an in-person patient history or physical examination of the patient before engaging
 5 in a telemedicine encounter if the physician satisfies all of the following conditions:

6 (i) Holds an unrestricted license to practice medicine in Louisiana.

7 (ii) Has access to the patient's medical records upon consent of the patient.

8 (iii) Maintains a physical practice location within the state of Louisiana or
 9 executes an affirmation with the board that the physician has an arrangement with
 10 another physician who maintains a physical practice location in Louisiana to provide
 11 for referrals and follow-up care which may be necessary.

12 (3) Except as authorized by rule promulgated by the board, no physician
 13 practicing telemedicine pursuant to this Subsection shall prescribe any controlled
 14 dangerous substance prior to conducting an appropriate in-person patient history or
 15 physical examination of the patient as determined by the board.

16 (4) A patient receiving telemedicine services may be in any location at the
 17 time that the telemedicine services are rendered. A physician practicing
 18 telemedicine may be in any location when providing telemedicine services to a
 19 patient.

20 (5) A physician practicing telemedicine shall document the telemedicine
 21 services rendered in the patient's medical records according to the same standard as
 22 that required for nontelemedicine services. Medical records including but not
 23 limited to video, audio, electronic, or other records generated as a result of providing
 24 telemedicine services shall be considered as confidential and shall be subject to all
 25 applicable state and federal laws and regulations relative to the privacy of health
 26 information.

27 Section 2. Part LXXV of Chapter 5 of Title 40 of the Louisiana Revised Statutes of
 28 1950, comprised of R.S. 40:1300.381 through 1300.384, is hereby enacted to read as
 29 follows:

1 PART LXXV. LOUISIANA TELEHEALTH ACCESS ACT

2 §1300.381. Short title

3 This Part shall be known and may be cited as the "Louisiana Telehealth
 4 Access Act".

5 §1300.382. Legislative findings

6 The legislature hereby finds and declares the following:

7 (1) As an innovative form of health care, telehealth is extremely valuable
 8 because it enhances access to care, particularly in rural locations and other medically
 9 underserved areas; makes delivery of care more cost-effective; and distributes
 10 limited provider resources more efficiently.

11 (2) Many patients with limited access to traditional health care can be
 12 diagnosed and treated sooner through telehealth than they would be otherwise,
 13 resulting in improved outcomes and less costly treatments due to early detection and
 14 prevention.

15 (3) Telehealth services could potentially address a great unmet need for
 16 health care by persons who have limited access to both traditional healthcare settings
 17 and to telemedicine as currently defined in Louisiana law.

18 (4) If this state is to achieve much needed improvement in health outcomes,
 19 a prudent and responsible policy for doing so would be to balance patient safety and
 20 access to care through expanding access to telehealth services for the people of
 21 Louisiana.

22 §1300.383. Definitions

23 (1) "Asynchronous store and forward transfer" means the transmission of a
 24 patient's medical information from an originating site to the provider at the distant
 25 site without the patient being present.

26 (2) "Distant site" means the site at which the healthcare provider delivering
 27 the service is located at the time the service is provided via a telecommunications
 28 system.

29 (3) "Healthcare provider" means a person, partnership, limited liability
 30 partnership, limited liability company, corporation, facility, or institution licensed

1 or certified by this state to provide health care or professional services as a physician
2 assistant, hospital, nursing home, dentist, registered nurse, advanced practice
3 registered nurse, licensed practical nurse, certified nurse assistant, offshore health
4 service provider, ambulance service, licensed midwife, pharmacist, speech-language
5 pathologist, audiologist, optometrist, podiatrist, chiropractor, physical therapist,
6 occupational therapist, certified or licensed athletic trainer, psychologist, medical
7 psychologist, social worker, licensed professional counselor, licensed perfusionist,
8 licensed respiratory therapist, licensed radiologic technologist, or licensed clinical
9 laboratory scientist.

10 (4) "Originating site" means the location of the patient at the time the service
11 is furnished via a telecommunications system or when the asynchronous store and
12 forward transfer occurs.

13 (5) "Synchronous interaction" means communication through interactive
14 technology that enables a healthcare provider and a patient at two locations separated
15 by distance to interact via two-way video and audio transmissions simultaneously.

16 (6) "Telehealth" means a mode of delivering healthcare services that utilizes
17 information and communication technologies to enable the diagnosis, consultation,
18 treatment, education, care management, and self-management of patients at a
19 distance from healthcare providers. Telehealth allows services to be accessed when
20 providers are in a distant site and patients are in the originating site. Telehealth
21 facilitates patient self-management and caregiver support for patients and includes
22 synchronous interactions and asynchronous store and forward transfers.

23 §1300.384. Telehealth; rulemaking required

24 A. Each state agency or professional or occupational licensing board or
25 commission that regulates the practice of a healthcare provider, as defined in this
26 Part, may promulgate, in accordance with the Administrative Procedure Act, any
27 rules necessary to provide for, promote, and regulate the use of telehealth in the
28 delivery of healthcare services within the scope of practice regulated by the licensing
29 entity.

30 B. The rules shall, at a minimum, provide for all of the following:

1 (1) Application of all laws regarding the confidentiality of healthcare
2 information and the patient's rights to the patient's medical information created
3 during telehealth interactions.

4 (2) Application of the same standard of care by a healthcare provider as if
5 the healthcare services were provided in person.

6 (3)(a) Licensing or registration of out-of-state healthcare providers who seek
7 to furnish healthcare services via telehealth to persons at originating sites in
8 Louisiana. The rules shall ensure that any such healthcare provider possesses, at a
9 minimum, an unrestricted and unencumbered license in good standing to perform the
10 healthcare service in the state in which the healthcare provider is located, and that
11 the license is comparable to its corresponding license in Louisiana as determined by
12 the respective Louisiana licensing agency, board, or commission.

13 (b) Each state agency and professional or occupational licensing board or
14 commission is authorized to provide by rule for a reasonable fee for the license or
15 registration provided for in this Subsection.

16 (4) Exemption from the telehealth license or registration required by this
17 Subsection for the consultation of a healthcare professional licensed by this state
18 with an out-of-state peer professional.

19 C. Nothing in this Part shall be construed to authorize a state agency or
20 professional or occupational licensing board or commission to expand, diminish, or
21 alter the scope of practice of any healthcare provider.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____